# STATE OF NEW YORK

930

2017-2018 Regular Sessions

# IN SENATE

January 5, 2017

Introduced by Sens. AMEDORE, MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to determinations upon the need for an environmental impact statement, and completion of draft environmental impact statements and environmental impact statements

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Subdivision 3 of section 8-0109 of the environmental conservation law, as amended by chapter 252 of the laws of 1977, is amended to read as follows:

3. **(a)** An agency may require an applicant to submit an environmental report to assist the agency in carrying out its responsibilities, including the initial determination and, (where the applicant does not prepare the environmental impact statement), the preparation of an environmental impact statement under this article. The agency may request such other information from an applicant necessary for the review of environmental impacts. Notwithstanding any use of outside resources or work, agencies shall make their own independent judgment of the scope, contents and adequacy of an environmental impact statement.

**(b) In the event an agency requires an applicant to submit an environmental report, such agency shall provide notice thereof to the applicant.**

**(i) upon notice of the requirement to submit an environmental report, an applicant shall submit such report to the agency within sixty days; and**

**(ii) upon receipt of an environmental report from an applicant, the agency shall, within forty days, review and make a determination of the need for an environmental impact statement and the submission of a draft**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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environmental impact statement, and any conditions relating to the scope of the proposed project or action.

The time periods established in this paragraph may only be waived by mutual consent of the agency and the applicant.

§ 2. Section 8-0109 of the environmental conservation law is amended by adding a new subdivision 4-a to read as follows:

4-a. Upon the filing of a draft environmental impact statement pursuant to subdivision four of this section, the final completion and issuance of an environmental impact statement shall be completed within one hundred eighty days subject to the following provisions:

(a) if the lead agency fails to reach a significance of action determination within twenty days of receipt of a draft environmental impact statement, there shall be deemed to have been issued a determination that no significance exists from the proposed action;

(b) if the lead agency fails to approve the scope of the proposed action within sixty days of the submission of a draft environmental impact statement, the scope of the proposed action contained in such draft statement shall be deemed to be the scope of the action to be included in the final environmental impact statement; and

(c) in the event a lead agency fails to approve a final environmental impact statement within one hundred eighty days of receipt of the related draft environmental impact statement, such draft statement shall be deemed to be the environmental impact statement.

The time periods established in this subdivision may only be waived by mutual consent of the lead agency and the applicant.

§ 3. Subdivision 8 of section 8-0109 of the environmental conservation law, as amended by chapter 252 of the laws of 1977, is amended to read as follows:

8. When an agency decides to carry out or approve an action which has been the subject of an environmental impact statement, it shall make an explicit finding that the requirements of this section have been met and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided. Provided, further, that after an environmental impact statement has been approved for an action, no further environmental impact issues shall be considered, unless such issue had been considered during the determination of approving such statement and such issue was significant enough to have prevented the continued proceeding of the action. For the purposes of this article, the impairment of the existing community or neighborhood character shall not be a relevant consideration for any purpose.

§ 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.